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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,410	10/02/2003	Nancy G. Kidney	US01 8037A	9996

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EXAMINER

DINH, DUC Q

ART UNIT PAPER NUMBER

2674

DATE MAILED: 11/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/678,410	KIDNEY ET AL.	
	Examiner	Art Unit	
	DUC Q. DINH	2674	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 31 March 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,6,8-18,20 and 24 is/are rejected.
- 7) ☒ Claim(s) 3,7 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>10/2/03</u> | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This application repeats a substantial portion of prior Application No. 09/823,460, filed March 30, 2001, and adds and claims additional disclosure not presented in the prior application ("the electronic object not consisting of a pointer controlled by a user input device" in claims 8 and 9). Since this application names an inventor or inventors named in the prior application, it may constitute a continuation-in-part of the prior application. Should applicant desire to obtain the benefit of the filing date of the prior application, attention is directed to 35 U.S.C. 120 and 37 CFR 1.78.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-20 are provisionally rejected under the judicially created doctrine of double patenting over claims 1-7 of copending Application No. 09/823,460. This is a provisional double patenting rejection since the conflicting claims have not yet been patented.

The subject matter claimed in the instant application is fully disclosed in the referenced copending application and would be covered by any patent granted on that copending application

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since the referenced copending application and the instant application are claiming common subject matter, as follows:

Claim 1 of the present application 10/687,410	Claim 1 of the co-pending application 09/623,460
A data processing system comprising:	A data processing system comprising:
a first data processing device with a first display monitor ;	a first data processing device with a first display monitor;
a second data processing device; wherein:	a second data processing device; wherein:
the first device has a data output for transmission of an electronic object;	the first device has a data output for transmission of an electronic object ;
the second device has a data input for receipt of the object transmitted by the first device;	the second device has a data input for receipt of the object transmitted by the first device;
the object corresponds with a graphical representation;	the object corresponds with a graphic a representation;
portion of the second display monitor.	
upon initiating of the transmission, the first device renders the representation as automatically and gradually disappearing from a visual portion of the first display monitor as a visual feedback representative of a progress of the transmission.	upon initiating of the transmission, the first device renders the representation as automatically and gradually disappearing from a visual portion of the first display monitor as a visual feedback representative of a progress of the transmission.
Claim 2 of the present application 10/687,410	Claim 2 of the co-pending application 09/623,460
The system of claim 1, wherein the second device has a second display monitor and renders the representation as gradually appearing on a visual portion of the second display monitor.	The system of claim 1, wherein the second device has a second displaymonitor and renders the representation as gradually appearing on a visual portion of the second display monitor.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-2, 4-6, 10-16 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Tani et al. (U.S Patent No 5,969,697), hereinafter Tani.

In reference to claim 1, Tani discloses an interactive control system in Fig. 1 having:

a first data processing device (90) with a first display monitor (10);

a second data processing device (91); wherein:

the first device has a data output (11) for transmission of an electronic object (cursor 11; in Fig. 4);

the second device has a data input (2) for receipt of the object (cursor 11) transmitted by the first device;

the object corresponds with a graphical representation (cursor 15 is graphical presentation);

upon initiating of the transmission (moving the cursor), the first device renders the representation as automatically and gradually disappearing from a visual portion of the first display monitor (10) as a visual feedback representative of a progress of the transmission (see Figs. 4-5, col. 5, lines 41-49).

In reference to claim 2, Tani discloses the second device (91) has a second display monitor (1) and renders the representation as gradually appearing on a visual portion of the second display monitor (see Fig. 4, col. 50-50-59).

In reference to claim 4, Tani discloses the system in Fig. 22, wherein the first device (90) comprises a configuration controller (250) and the second device (91) comprises a reconfigurable apparatus (200) controllable via the object upon receipt (col. 4, lines 25-61).

In reference to claim 5, Tani discloses an electronic object (15) for being communicated between data processing devices (90 and 91; Fig. 1) which at least one has a respective display monitor (10), and wherein the object has a graphical representation (cursor 15) that is suitable for gradually appearing or disappearing on a visual portion of the display monitor (see Fig. 4) as a visual feedback representative of a progress of the communication, the graphical representation automatically gradually disappearing or appearing following an initiation of the communication (col. 5, lines 40-49).

In reference to claim 6, refer to the rejection as applied to claim 5. In addition, Tani discloses the program (software application) for control of transferring an electronic between data processing devices (Fig. 14-16 and col. 10, lines 1-3).

In reference to claim 10, see the rejection as applied to claim 1 and 6 above.

In reference to claims 11 and 15 Tani discloses the electronic object adds functionality to the second device (the electronic object 15 add the functionality to the second electronic having display 10 the function to control the voice recording for the system; Fig. 15, col. 9, lines 40-50).

In reference to claims 12, 14, 16, Tani discloses the representation disappears from the first device (graphic object 15), a corresponding representation appears on the second device and

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represent to a user the added functionality (the electronic object 15 add the functionality to the second electronic having display 10 the function to control the voice recording for the system; Fig. 15, col. 9, lines 40-50).

In reference to claim 13, refer to the rejection as applied to claim 12.

In reference to claim 20, Tani discloses the presentation of the object comprising an auditory representation (speaker icon 24 in Fig. 15).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tani et al. (U.S Patent No 5,969,697), herein Tani in view Pinedo et al. (U.S Patent No. 6,917,362).

In reference to claim 8, Tani discloses an interactive control system in Fig. 1 having:

a first data processing device (90) with a first display monitor (10);

a second data processing device (91); wherein:

the first device has a data output (11) for transmission of an electronic object (cursor 11; in Fig. 4);

the second device has a data input (2) for receipt of the object (cursor 11) transmitted by the first device;

the object corresponds with a graphical representation (cursor 15 is a graphical presentation);

upon initiating of the transmission (moving the object 15), the first device renders the representation as automatically and gradually disappearing from a visual portion of the first display monitor (10) as a visual feedback representative of a progress of the transmission (see Figs. 4-5, col. 5, lines 41-49).

Accordingly, Tani disclose everything except the electronic object not consisting of a pointer control by a user input device. However, output graphic object for transmission between computer systems is well known in the art of managing single logical screen graphic system. Pinedo discloses a graphic object 750 in Fig. 7 gradually disappearing from a portion of the display monitor. The graphic object 750 not consisting a pointer controlled by a user input device (Fig. 3 of Saito).

It would have been obvious for one of ordinary skill in the art at the time of the invention to modify the graphic object in the system of Tani for not consisting of a pointer control by a user input device as taught by Pinedo, because it would provide system capable of displaying a graphical without obstructing by a pointer controlling by an input device thereby providing better observing and controlling the graphical object (col. 1, lines 10-11).

In reference to claim 9, refer to the rejection as applied to claim 8 and 6.

8. Claims 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tani et al. (U.S Patent No 6,569,697) in view of Want et al. (U.S Patent No. 5,818,425) hereinafter Want.

In reference to claim 17, Tani does not disclose the first device has a data output for wireless transmission of the electronic object to a second device. Want discloses user interface system for providing pen based input to second electronic device having a wireless transmission

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provided on a first electronic device 30 to a second electronic device 50 for transmitting graphic object as shown in Fig. 4-5.

It would have been obvious for one of ordinary skill in the art at the time of the invention to substitute the wire transmission system in the first device of Tani with the wireless transmission to transmit data to the second device as taught by Want because it would increase the range for transmitting data between devices for users' conveniences in using first device in a remote distance, i.e. a user interface system for graphically displaying pen based input on large display screens (co. 1, lines 59-65 of Want).

In reference to claim 18, Tani discloses the second device is a display at hand (col. 5, lines 20-25) and Want discloses the first device is a handheld device (personal digital assistant 30).

Allowable Subject Matter

9. Claims 3, 7 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

10. The following is a statement of reasons for the indication of allowable subject matter: none of the cited arts teaches or suggests

“at least the first or second device has an orientation sensor for control of data rate of transmission in dependence of the orientation of the sensor with respect to gravity (claim 3);

“at least one of the devices has an orientation sensor for sensing an orientation of the sensor with respect to gravity; and the application controls a data rate of the transferring depending on the orientation sensed” (claim 7)

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“the data processing system of claim 18 wherein the first device includes an orientation sensor enabling the user to initiate transmission according to a particular orientation of the first device” (claim 18).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DUC Q DINH whose telephone number is (571) 272-7686. The examiner can normally be reached on Mon-Fri from 8:00.AM-4:00.PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edouard Patrick can be reached on (571) 272-7603. The fax phone number for the organization where this application or proceeding is assigned is **571-273-8300**.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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“the data processing system of claim 18 wherein the first device includes an orientation sensor enabling the user to initiate transmission according to a particular orientation of the first device” (claim 18).

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to DUC Q DINH whose telephone number is (571) 272-7686. The examiner can normally be reached on Mon-Fri from 8:00.AM-4:00.PM.

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DUC Q DINH
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Art Unit 2674

DQD
October 28, 2005



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SUPERVISORY PATENT EXAMINER